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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,027	10/28/2003	Gary Katz	808-P-4	6050

7590 08/09/2005

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,027

Applicant(s)

KATZ ET AL.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☒ Claim(s) 11 and 12 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-28-03.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Katz et al #6,443,260. Katz et al disclose stepladder tray 30 comprised of a base 32 received on top of a ladder L, a tray 34 with 4 walls and partitioned compartments (150-156 even) as best seen in Figures 1 and 8, a hinge assembly 82 (A-C), 116(barrels), 118(barrels) that receive a hinge pin 125 in hinge bore 88, a knurled nut assembly 60 (column 3, lines 49-52), and reversible clamp assembly 50 (L-shaped) received within recesses 46, 48.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz et al as applied to claims 1, 2, and 4-8 above, and further in view of Perkins #4,303,158. Katz et al fails to disclose a magnetic element in the tray and a removable partition. Perkins teaches the utility of a tool box/tray having a tray section 47 with removable partitions 48 that allow for

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adjustable sized compartments, and a magnet 49 used to receive and retain metal objects, i.e., tools thereon. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder tool tray of Katz et al with removable partitions and a magnet, as taught by Perkins, so as to allow for adjustable sized compartments, and receive and retain metal objects, i.e. tools therein, while producing no new and unexpected results.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katz et al as applied to claims 1, 2, and 4-8 above, and further in view of Baer #6,859,980. Katz fails to disclose a friction hinge assembly. Baer, as recited in column 5, lines 9-22, teaches the well known utility of non-circular hinge bores 7, 9 that receive a generally circular hinge pin 20, the assembly sized and configured such that there is no excess play and the hinge functions properly. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder tool tray of Katz et al with a friction hinge assembly as taught by Baer, so as to reduce excess play in the hinge and provide a hinge that functions smooth and properly.

#### *Allowable Subject Matter*

Claims 11, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 11, is the inclusion of a detent means “for temporarily securing the device in a stored position”, the means comprising a slot defined by one of the tray and base sidewalls and a projection

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alignable with the slot on the other of the sidewalls. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

### *Conclusion*

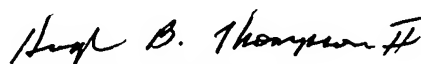
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hutton et al #5,505,354, Eldridge et al #5,195,538, and Ricchiuti #5,054,668, are cited to teach magnetic tray assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

August 6, 2005